

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed April 20, 2005. A Petition for Extension of Time to Respond is submitted herewith, together with the appropriate fee.

Claims 3-6, 15-19, 21, 22 and 24-39 are pending in the Application prior to the outstanding Office Action. Claims 15-19, 22 and 25-28 were withdrawn from consideration in previous Response A. In the current Office Action, the Examiner allowed claims 21 and 24 and rejected claims 3-6 and 29-39. The present Response cancels claim 6 and amends claims 3, 4, 21, 24, 29 and 32-34, leaving for the Examiner's present consideration claims 3-5, 21, 24, and 29-39. Reconsideration of the rejections is requested.

I. ALLOWED CLAIMS

Claims 21 and 24

Applicants appreciate the indication that claims 21 and 24 are allowable. The Examiner objected to claims 21 and 24 because of the following informalities: "in each of claims 21 and 24, both occurrences of 'bellow' should be -bellows--." Applicants have amended claims 21 and 24 as requested by the Examiner, and now believe that claims 21 and 24 are no longer objectionable.

II. REJECTION UNDER 35 U.S.C. 112(A)

Claims 4, 6 and 29-36

Claims 4, 6 and 29-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants request cancellation of claim 6. Applicants respectfully traverse the rejection of claims 4 and 29-36.

The Examiner writes that claim 4 "recites the limitation 'the at least one rib' and 'the at least one spring system' in lines 1-2 while claim 6 recites 'each of the at least one spring systems' in lines 1-2. There is insufficient antecedent basis for these limitations in the claims." See OA, page 3. Applicants have amended claim 4 to correct the antecedent basis problem. Applicants assert that claim 4 is no longer indefinite, and therefore request that the rejection of claim 4 be withdrawn.

The Examiner further writes that "Regarding claim 29, it is not clear if the applicant is intending to functionally or positively recite the carton and gap as part of the invention. The preamble of claim 29 states the former (*'for use in retaining...with a carton...'*), but then the carton is recited positively later on (*'...wherein said outer wall extends...of the carton such that a gap exists...'* and *'...at least a portion of the rib projecting a distance that varies with the gap such that said portion... of the carton'*)." See OA, page 3. Applicants have amended claim 29 to more clearly communicate a functional recitation of the carton and

The Examiner further writes that “Claim 33 recites the limitation ‘the second plane’ in line 2. There is insufficient antecedent basis for this limitation in the claim.” See OA, page 3. Applicants have amended claim 33 to more properly recite “the second surface.” Applicants assert that claim 33 is no longer indefinite, and therefore request that the rejection of claim 33 be withdrawn.

Claims 3-6 and 29-36

The Examiner writes that “Azelton et al. ‘796 fails to specifically teach at least one rib protruding from the outer wall. Nevertheless, Lidgard ‘534 divulges an end cap...includes ribs (above) protruding from an outer wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included ribs on the outer wall of Azelton et al, ‘796 as in Lidgard ‘534 so as to allow the end caps along with an object being held by the end caps to more closely conform to the inside of a carton or box which would provide for a more stable assembly.” See OA, page 5.

As can be seen, a rib is not “protruding from said outer wall a distance that varies along a gap between the second plane and the outer wall such that a contact surface of the rib is generally parallel to the second plane and generally perpendicular to the first plane,” (Emphasis added) as recited in claim 3, but rather protrudes a uniform distance such that a contact surface of the rib of Lidgard is generally parallel to a first plane (where the first plane is defined relative to the second plane, which is further defined by the wall from which the rib protrudes). The difference is important. As noted in the specification, one purpose of molding the outer wall at an acute angle relative to the second plane is that ejection of the mold is made easier by such a configuration. The rib is made to vary in protrusion from the outer wall to compensate for the acute angle of the outer wall, thereby providing both the benefits of simplified molding, and direct contact with a carton, for example.

The ribs of Lidgard, in contrast, interfere with the benefits gained by molding the outer wall at an acute angle relative to the second plane. As such, Lidgard *teaches away* from including a rib “protruding from said outer wall a distance that varies along a gap between the second plane and the outer wall such that a contact surface of the rib is generally parallel to the second plane and generally perpendicular to the first plane,” as recited in claim 3, because it provides no motivation to include such a rib as recited in claim 3. Further, Lidgard suggests that no such molding complication exists by ignoring the result of providing such ribs as shown in Fig. 1 and described in Lidgard, which as mentioned above are incompatible to providing a solution to the problem presented. For the same reason, Lidgard fails to teach or suggest “a rib projecting outward from said outer wall such that when the unitary spring system end cap is disposed within the carton, at least a portion of the rib projects a distance that varies with the gap so that said portion generally contacts the second surface of the carton” (Emphasis added) as recited in claim 29.

Azelton in view of *Lidgard* fails to teach or suggest all of the limitations of claims 3 and 29, and therefore cannot render claims 3 and 29 obvious under 35 U.S.C. 103(a). Dependent claims have at least the features of the independent claims from which they depend; therefore, *Azelton* in view of *Lidgard* cannot render claims 4 and 5, and 37-39 (which ultimately depend from claim 3) and claims 30-36 (which ultimately depend from claim 29) obvious under 35 U.S.C. 103(a). Applicants therefore respectfully request withdrawal of the rejection.

IV. CONCLUSION


In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

Enclosed is a PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136 for extending the time to respond up to and including today, August 22, 2005.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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